

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD K. NIEMI, MARK NIEMI, d/b/a
RICHARD K. NIEMI DESIGN AND
ENGINEERING SERVICES, and RKN
TECHNOLOGY, LLC.

Plaintiffs,

Case No. 05-74210

Honorable Patrick J. Duggan

v.

AMERICAN AXLE MANUFACTURING
& HOLDING INC., successor corporation to
AMERICAN AXLE &
MANUFACTURING OF MICHIGAN, a
defunct corporation, AMERICAN AXLE
MANUFACTURING INC.,
SPRINGFIELD TOOL & DIE, INC.,
successor corporation to NEWCO OF
DUNCAN INC., a defunct corporation, and
JAMES ONYSKI,

Defendants.

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on November 13, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On November 2, 2005, Plaintiffs filed a copyright infringement action against
Defendants. Presently before this Court is Plaintiffs' Motion for Leave to Amend Complaint

filed on September 29, 2006. Plaintiffs contend that their original complaint reflected their belief that a claim for contributory or vicarious copyright liability did not need to be separately pled. Plaintiffs now seek leave to add three causes of action to their complaint, including: (1) fraud; (2) breach of copyright license; and (3) conspiracy, contributory and vicarious copyright infringement. Defendants oppose Plaintiffs' motion arguing that prejudice will result if leave to amend were granted and that Plaintiffs seek to amend only to avoid summary judgment. A hearing on Plaintiffs' motion was held on November 13, 2006.

For the reasons set forth on the record at the hearing on November 13, 2006,

IT IS ORDERED, that Plaintiffs' Motion for Leave to Amend Complaint to add a count for contributory infringement is **GRANTED**;

IT IS FURTHER ORDERED, that as to all other causes of action that Plaintiffs seek to include in an amended complaint, Plaintiffs' motion is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Robin H. Kyle, Esq.
Donald Schlyer, Esq.
George D. Moustakas, Esq.
Christian J. Garascia, Esq.